IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (Stamp) NO. 11528 OF 2007

Shri Shaukat Kamruddin Dange and ors. ... Petitioners
VS.
State of Maharashtra and ors. . ... Respondents

Mr. S. B. Deshmukh for petitioners.
Ms. Vaidehi Mhaspurkar AGP for respondent nos. 1 and 2.
Mr. R. S. Khadapkar for respondent no. 3

CORAM: **D.G. KARNIK**
AND
A. A. SAYED JJ.
(Vacation Court.)

DATE: May , 14 , 2007

P.C.:

1. Heard learned counsel for the parties.
2. By this petition the petitioners challenge the award dated 20th April 2007 made by the Assistant Director of Town Planning and Special Land Acquisition Officer, Satara acquiring their lands.
3. Learned counsel for the petitioners submitted that the award

has to be made by the Collector and not by the Assistant Director of Town Planning. The award in question has been made by the Assistant Director of Town Planning and therefore is without jurisdiction. He further submitted that the powers of the Collector can only be delegated to the Land Acquisition Officer as defined under section 3(eee) of the Land Acquisition Act. He submitted that the Assistant Director of Town Planning is not the Land Acquisition Officer and therefore the powers could not be delegated to him and therefore the award passed by him is a nullity.

4. Sub section 2 of section 52-A (Maharashtra Amendment to the Land Acquisition Act) says that the Collector may, subject to the general or special orders of the Government, delegate any of his powers or functions under this Act to any officer not below the rank of a Tahsildar or to a Land Acquisition Officer, specially appointed by the Government in that behalf. Thus the powers can be delegated by the Collector not only to the Land Acquisition Officer but also to any other officer not below the rank of a Tahsildar. Learned counsel for the respondent no.3 places on record a copy of the order of the

Collector dated 16th September 2004 by which the Collector has delegated his powers to the Assistant Director of Town Planning. The letter is taken on record and marked 'X' for identification. In view of this the Assistant Director of Town Planning had the delegated power to pass the award. Therefore, the contention that the award was without jurisdiction and a nullity has to be rejected.

5. Counsel for the petitioner then submitted that the property was being acquired for respondent no.3 , and there was nothing on record to show that there was an agreement entered into between the State Government and respondent no.3 regarding acquisition. He submitted that in absence of such such an agreement which is required to be entered into under section 39 and 41 of the Land Acquisition Act by the respondent no.3 with the Government, the acquisition could not have been made. Respondent no.3 is an educational institution and land has been reserved in the development plan prepared under the Maharashtra Regional Town Planning Act (for short MRTP Act). The land is acquired under the provisions of section 126 of the MRTP Act. Only the

procedure for acquisition under the Land Acquisition Act is made applicable for such acquisition. Since the land reserved for a public purpose under the development plan is acquired for the effectuation of the said purpose and for the purpose of the institution which is authorised to use the land under the development plan it is not necessary to enter into any agreement under section 41 of the Land Acquisition Act.

6. No other point was urged.

7. There is no merit in this petition which is hereby dismissed summarily.

(D.G. KARNIK J.)

(A.A. SAYED J.)